



TAX EXEMPT AND
GOVERNMENT ENTITIES
DIVISION

DEPARTMENT OF THE TREASURY
INTERNAL REVENUE SERVICE
WASHINGTON, D.C. 20224

201336023

JUN 12 2013

Uniform Issue List: 408.03-00

T:EP:RA:T3

Legend:

Taxpayer A = ***

IRA X = ***

Amount A = ***

Plan X = ***

Employer K = ***

Trustee T = ***

Company C = ***

Dear ***,

This letter is in response to a request dated August 06, 2012, as supplemented by correspondence dated November 13, 2012, submitted on your behalf by your authorized representative, in which you request a waiver of the 60-day rollover requirement contained in section 408(d)(3) of the Internal Revenue Code (the "Code").

The following facts and representations have been submitted under penalty of perjury in support of the ruling requested.

Taxpayer A represents that he received a distribution from IRA X totaling Amount A. Taxpayer A asserts that his failure to accomplish a rollover within the 60-day period

prescribed by section 408(d)(3) was due to the failure of Company C to process the paperwork necessary to accomplish the rollover of Amount A within the 60 day period.

On October 28, 20 , Taxpayer A received a distribution from IRA X in the form of a check. Taxpayer A endorsed the check and made it payable to Plan X, a plan sponsored by Employer K.

On November 11, 20 , Taxpayer A delivered the check and some of the paperwork necessary to accomplish a rollover to Company C, the Recordkeeper for Plan X. On November 23, 20 , Taxpayer A contacted Company C regarding the rollover process but he was confused by Company C's explanation on what was needed to complete the rollover of Amount A.

On November 30, 20 , Taxpayer A delivered the remaining paperwork necessary to complete the rollover. However, as a result of the prior conversation with Taxpayer A, Company C had mailed the check for Amount A back to Taxpayer A and the rollover could not be completed.

On December 20, 20 , 53 days after receiving the distribution of Amount A from IRA X, Taxpayer A delivered the check to Company C a second time, thus completing all of the steps necessary to effect the rollover within the 60 day period. Although Company C represents that it takes 24 to 48 hours to process rollover checks, due to the Christmas holiday and weekend following the receipt of the check, Company C did not forward the check for Amount A to Trustee T, the trustee for Plan X, for seven days. Trustee T received the check on the 60th day of the rollover period and deposited the check into Plan X on the 61st day.

Based on the facts and representations, you request a ruling that the Internal Revenue Service waive the 60 day rollover requirement contained in section 408(d)(3) of the Code with respect to the distribution of Amount A.

Section 408(d)(1) of the Code provides that, except as otherwise provided in section 408(d), any amount paid or distributed out of an Individual Retirement Account (IRA) shall be included in gross income by the payee or distributee, as the case may be, in the manner provided under section 72 of the Code.

Section 408(d)(3) of the Code defines, and provides the rules applicable to IRA rollovers.

Section 408(d)(3)(A) of the Code provides that section 408(d)(1) of the Code does not apply to any amount paid or distributed out of an IRA to the individual for whose benefit the IRA is maintained if

(i) the entire amount received (including money and any other property) is paid into an IRA for the benefit of such individual not later than the 60th day after the day on which the individual receives the payment or distribution; or

(ii) the entire amount received (including money and any other property) is paid into an eligible retirement plan (other than an IRA) for the benefit of such individual not later than the 60th day after the date on which the payment or distribution is received, except that the maximum amount which may be paid into such plan may not exceed the

portion of the amount received which is includible in gross income (determined without regard to section 408(d)(3)).

Section 408(d)(3)(B) of the Code provides that section 408(d)(3) does not apply to any amount described in section 408(d)(3)(A)(i) received by an individual from an IRA if at any time during the 1-year period ending on the day of such receipt such individual received any other amount described in section 408(d)(3)(A)(i) from an IRA which was not includible in gross income because of the application of section 408(d)(3).

Section 408(d)(3)(D) of the Code provides a similar 60-day rollover period for partial rollovers.

Section 408(d)(3)(E) of the Code provides that the rollover provisions of section 408(d) do not apply to any amount required to be distributed under section 408(a)(6).

Section 408(d)(3)(I) of the Code provides that the Secretary may waive the 60-day requirement under sections 408(d)(3)(A) and 408(d)(3)(D) of the Code where the failure to waive such requirement would be against equity or good conscience, including casualty, disaster, or other events beyond the reasonable control of the individual subject to such requirement. Only distributions that occurred after December 31, 2001, are eligible for the waiver under section 408(d)(3)(I) of the Code.

Rev. Proc. 2003-16, 2003-4 I.R.B. 359 (January 27, 2003) provides that in determining whether to grant a waiver of the 60-day rollover requirement pursuant to section 408(d)(3)(I), the Service will consider all relevant facts and circumstances, including: (1) errors committed by a financial institution; (2) inability to complete a rollover due to death, disability, hospitalization, incarceration, restrictions imposed by a foreign country or postal error, (3) the use of the amount distributed (for example, in the case of payment by check, whether the check was cashed); and (4) the time elapsed since the distribution occurred.

The information presented and documentation submitted by Taxpayer A is consistent with his assertion that his failure to accomplish a timely rollover was due to the failure of Company C to process the necessary paperwork to accomplish the rollover of Amount A within the 60 day period.

Therefore, pursuant to section 408(d)(3)(I) of the Code, the Service hereby waives the 60-day rollover requirement with respect to the distribution of Amount A from IRA X. Provided all other requirements of section 408(d)(3) of the Code, except the 60-day requirement, are met the contribution of Amount A into Plan X will be considered a rollover contribution within the meaning of section 408(d)(3) of the Code.

This ruling does not authorize the rollover of amounts that are required to be distributed by section 401(a)(9) of the Code.

No opinion is expressed as to the tax treatment of the transaction described herein under the provisions of any other section of either the Code or regulations which may be applicable thereto.

This letter is directed only to the taxpayer who requested it. Section 6110(k)(3) of the Code provides that it may not be used or cited as precedent.

Page 4

201336023

A copy of this letter is being sent to your authorized representative pursuant to a power of attorney on file in this office.

If you wish to inquire about this ruling, please contact *** ** (ID# ***) at (***) ***-
***. Please address all correspondence to SE:T:EP:RA:T3.

Sincerely yours,

A handwritten signature in cursive script, appearing to read "Laura B. Warshawsky", with a long horizontal flourish extending to the right.

Laura B. Warshawsky, Manager
Employee Plans Technical Group 3

Enclosures:

Deleted copy of ruling letter
Notice of Intention to Disclose

cc: ***